

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 12, 2006

Signature:

Shawn P. Foley
(Shawn P. Foley)

Docket No.: TEVNHC 3.0-200
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Millar

Application No. 08/999,752

Confirmation No.: 4312

Filed: June 4, 1997

Art Unit: 1615

For: MEDICINAL AEROSOLS AND METHODS OF
DELIVERY THEREOF

Examiner: Susan T. Tran

PETITION TO WITHDRAW HOLDING
OF ABANDONMENT UNDER 37 C.F.R. 1.181(a)

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant's prior attorney of record received a Notice of Abandonment mailed October 5, 2004 in connection with the captioned application. Applicant's present attorneys contend that the application is not, in fact, abandoned. Thus, they request that the holding of abandonment be withdrawn.

By way of background, this application has been transferred to this firm by the assignee, Norton Healthcare Limited. Enclosed is a copy of the Power of Attorney submitted to the PTO under separate cover. Upon review of this file, it was discovered that the Patent Office determined that the application was abandoned. Upon conferring with the assignee, it was agreed that this present Petition was required to withdraw the holding of abandonment.

A final Office Action was mailed on August 22, 2002 to applicant's original attorney, Darby & Darby. According to the contents of the file received from the immediately prior counsel at Ivax Corporation (the parent corporation of the assignee), a Request for filing of a Continued Prosecution Application Pursuant to 37 C.F.R. 1.53(d) was timely mailed via Express Mail on February 24, 2003 with a request to charge a deposit account for the fees associated therewith. Enclosed is the best available photocopy of the request for filing of a CPA. Also, enclosed is a photocopy of the postcard submitted with the CPA indicating receipt by the PTO on February 24, 2003 (the 6-month response date, February 22, 2003, fell on a Saturday).

This evidence clearly and unequivocally establishes that the prior attorney of record timely filed a complete response to the Office Action and thus avoided any lapse in the pendency of the application. It is respectfully requested that the petition be granted, the application restored to pending status and the abandonment withdrawn. If there are any fees due in connection with this petition, the Commissioner is authorized to change Deposit Account No. 12-1095 therefor.

Dated: October 12, 2006

Respectfully submitted,

By Shawn P. Foley
Shawn P. Foley
Registration No.: 33,071
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
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Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

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PATENTS

UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket Number: NHC0200-USA)

In re Application of: Fiona Catherine Millar

Serial Number: 08/999,752

Filing Date: Herewith

Title: MEDICINAL AEROSOLS AND METHODS OF DELIVERY THEREOF

Examiner: John D. Pak

Group Art Unit: 1616


BOX CPA
Assistant Commissioner for Patents
Washington, DC 20231

CERTIFICATION UNDER 37 C.F.R. § 1.10

I hereby certify that the attached papers are being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" Service under 37 C.F.R. § 1.10 on February 24, 2003, and is addressed to : BOX CPA, Assistant Commissioner for Patents, Washington, D.C. 20231

EL938624478US

"Express Mail Label No."


Angelo J. Mignanelli

FILING OF CONTINUED PROSECUTION APPLICATION
PURSUANT TO 37 C.F.R. § 1.53(d)

Dear Sir:

This is a request for filing of a Continued Prosecution Application under 37 C.F.R. § 1.53(d) for U.S.S.N. 08/999,752, filed on June 4, 1997, and entitled "MEDICINAL AEROSOLS AND METHODS OF DELIVERY THEREOF" in which no payment of the issue fee, abandonment of, or termination of proceedings has occurred. The inventor, Fiona Catherine Millar, named in the prior application remains the same. No inventors are to be added or deleted in the CPA application.

Applicants also request a three-month extension of time pursuant to 37 C.F.R. § 1.136, up to and including February 22, 2003 to respond to the Examiner's Action mailed August 22, 2002. This submission is being timely filed on February 24, 2003 since the due date of February 22, 2003 fell on a Saturday.

BEST AVAILABLE COPY

Fiona Catherine Miller

U.S.S.N. 38 688,752

Filing of Continued Prosecution Application Pursuant to 37 C.F.R. § 1.53 (d)

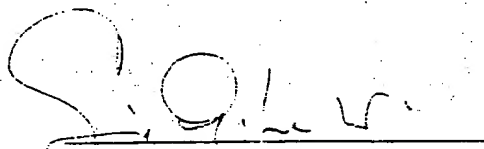
February 24, 2003

Please charge our Deposit Account No. 50-0943 the required fees of \$750.00 pursuant to 37 C.F.R. § 1.16(a) and \$950.00 pursuant to 37 C.F.R. § 1.17(a)(3) for a total of \$1680.00. The fee charged reflects the Large Entity Status of this application. For this purpose, we enclose a duplicate copy of this document.

No additional costs are believed to be due in connection with this filing. However, please charge any necessary fees to our Deposit Account No. 50-0943.

If there are any questions, please call the undersigned at the telephone number indicated below.

Respectfully submitted,



Simona A. Levi-Minzi, Ph.D.
Registration Number 45,750
Attorney for Applicant

IVAX CORPORATION
1400 Biscayne Boulevard
Miami, FL 33137
Tel.: (305) 575-6061
Fax: (305) 575-6064

Date: February 24, 2003



MEDICINAL AEROSOLS AND METHODS OF DELIVERY THEREOF

Title:

Serial No. 09/999,752

Applicant Miller

In the above matter, the following have been received by the US Patent and Trademark Office on the date stamped:

EL938624478US

☒ Express

☐ Application incl. _____ pages (_____ Design)

_____ pp. of specification

_____ pp. of claims (# of claims _____)

_____ pp. of abstract

_____ sheets of drawings; Figs. FEB 24 2003

☐ formal ☐ informal

☐ Provisional Application Cover Sheet

☐ Declaration / Power of Attorney

☐ Verified Statement Claiming Small Entity Status

☐ Copy of Notice to File Missing Parts

☒ Request for filing CPA; 37 CFR 53(d)

☐ IDS, PTO-1449, and _____ references (Supp. _____)

☐ other: _____

☐ other: _____

Certificate of Mailing under 37 CFR 1.8(a)

☐ Response to Office Action/Restriction Req.

☒ Petition for _____ month extension of time

☐ Assignment and Cover Sheet

☐ Amendment (☐ Preliminary; ☐ After Final)

☐ Notice of Appeal

☐ Appellant's Brief (triplicate) (☐ Reply Brief)

☐ Letter to Chief Draftsperson

☐ Issue Fee / ☐ Maintenance Fee Transmittal

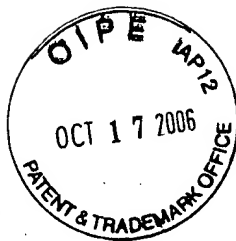
☐ Sequence listing; ☐ Diskette

☐ Transmittal Letter

☐ Check for \$ _____; check # _____

☐ Deposit Account Authorization \$ _____

Mailing Date: 2/24/03 Docket No. NHC0200-USA Atty/paralegal/secy: am



PTO/SB/80 (01-06)

Approved for use through 12/31/2008. OMB 0851-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:



Practitioners associated with the Customer Number:

000530

OR



Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:



The address associated with Customer Number:

000530

OR



Firm or Individual Name

Address

City

State

Zip

Country

Telephone

Email

Assignee Name and Address:

Norton Healthcare Limited t/a IVAX Pharmaceuticals UK Limited
Albert Basin, Royal Docks
LONDON
E16 2QJ; UNITED KINGDOM

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	10 Aug 2006
Name	John Beighton	Telephone	+44 113 201 3974
Title	Director, Norton Healthcare Limited t/a IVAX Pharmaceuticals UK Limited		